

EXECUTIVE ORDER S-13-06

WHEREAS the stability of California's emergency health care system is paramount in providing fundamental health care services to Californians; and

WHEREAS critical emergency care providers are entitled to be paid fairly and promptly for the lifesaving services rendered whenever and wherever needed; and

WHEREAS the cost of emergency services can be extraordinarily high, and Californians who prudently purchase the financial protections of health care coverage should be able to trust that their health plans will fairly and promptly reimburse medical providers who provide them care when they are seriously ill and in need of emergency care; and

WHEREAS health plans are legally responsible for paying emergency care providers for services rendered to their enrollees under the Knox-Keene Health Care Service Plan Act of 1975; and

WHEREAS emergency care providers have expressed concerns regarding the level of reimbursement that they receive from health plans with whom they do not contract, and this concern has led to the practice of non-contracted emergency care providers seeking reimbursement directly from health plan enrollees rather than the health plans; and

WHEREAS when a bill for emergency care is sent to an enrollee, often the enrollee does not know that his/her health plan is responsible for paying non-contracted emergency care providers, and mistakenly assumes that he/she is required to pay the provider's bill; and

WHEREAS health plan enrollees have suffered great economic harm due to billing practices that include aggressive collection activities, and the destruction of the enrollee's credit; and

WHEREAS aggressive collection activities or the fear of substantial financial liability may cause an enrollee to forego emergency care in the event of life-threatening illness or injury; and

WHEREAS the Department of Managed Health Care, which regulates health plans, has consistently maintained that the enrollee should not be billed for services that are the financial responsibility of the health plan; and

WHEREAS in response to my strong commitment to resolve payment disputes between health plans and non-contracted providers, I directed the Department of Managed Health Care to establish a Provider Complaint Unit to specifically address systemic reimbursement issues and to ensure that providers of emergency care are fairly and promptly paid; and

WHEREAS the Department of Managed Health Care has begun to work on an additional avenue for non-contracted providers to use in resolving payment disputes with health plans by developing a fair, fast, and inexpensive Independent Dispute Resolution Process modeled after the successful Independent Medical Review System; and

WHEREAS it is because of the Department of Managed Health Care's significant efforts to address these payment issues that I believe it is now appropriate to remove the enrollee as a bargaining chip in payment disputes and require the health plans and non-contracted providers to work together through the Department of Managed Health Care's administrative remedies to resolve these matters.

NOW, THEREFORE, I, Arnold Schwarzenegger, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and statutes of the State of California, do hereby issue this Order and direct as follows:

The Director of the Department of Managed Health Care shall do the following:

1. Take all steps necessary to protect Californians from balance billing, including the full and complete enforcement of existing regulations and the promulgation of additional regulations to further protect Californians from balance billing, if necessary.
2. Re-double efforts to enforce the Knox-Keene Health Care Service Plan Act of 1975's provisions relating to the fair and prompt payment of non-contracted provider claims.
3. Conduct a review of the current criteria used to determine the reasonable and customary value of non-contracted emergency services to ensure that it results in fair reimbursement for the provider, while not adversely affecting the financial viability of California's health care delivery system.
4. Expeditiously implement a fair, fast, and inexpensive Independent Dispute Resolution Process to avoid placing enrollees in the middle of payment disputes between health plans and providers and to ensure that non-contracted providers who deliver critical services without regard to a patient's financial ability to pay are paid the reasonable and customary value for their services.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 25th day of July 2006.

ARNOLD SCHWARZENEGGER
Governor of California

ATTEST:

BRUCE McPHERSON
Secretary of State